

REMARKS

Applicant canceled claims 31-38, without prejudice, and added new claims 39-46.

Applicant reserves the right to pursue the canceled claims in one or more continued applications.

According to the Office Action, the specification is objected to as failing to provide antecedent basis for the claimed subject matter and the claims received a filing date of January 5, 2004, because the claims call for a three-layered stent while the specification in the priority documents disclosed a two-layered stent. Applicant traverses.

The present application claims priority through a series of continuation applications to a CIP application filed on July 8, 1992. The CIP application clearly discloses that the stent can include three layers or more (See, e.g., page 15, lines 4-7.) Therefore, the claimed subject matter is entitled to a filing date of at least July 8, 1992. Applicant requests that the objection be withdrawn.

Prior to this Amendment, claims 31-34 and 36-38 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,824,077 (Mayer), and claims 31-38 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 6,387,123 (Jacobs). As discussed above, the claimed subject matter is entitled to a priority date of *at least* July 8, 1992. The filing dates of Mayer (January 19, 1993) and Jacobs (October 13, 1999), however, are after Applicant's priority date of July 8, 1992, and therefore, Mayer and Jacobs are not prior art to the claimed subject matter. The rejections should be withdrawn.

In light of the above remarks, Applicant believes the claims are in condition for allowance, which action is requested.

Enclosed is a Petition for Extension of Time with the fee. Please apply any other charges or credits to deposit account 06-1050.

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Respectfully submitted,

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